

Connecticut Office of Consumer Counsel

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OCC NEWSLETTER

This month the Office of Consumer Counsel says Goodbye to Walter Wisnefsky, who is retiring after 16 ½ years of service. The Office of Consumer Counsel wishes Walter a happy, long, and healthy retirement!

Legislative Session Ends Uneventfully with Regard to Energy Issues

Very few bills relating to electricity or natural gas passed both houses at the Capitol. OCC presumes that the bills that passed will not be vetoed and will become law. Among those that did pass were:

- [An Act Establishing a Code of Conduct for the Transactions between Natural Gas Distribution Companies and their Affiliates, Preventing Propane Terminations for Certain Customers and Concerning the State's Energy Assessment.](#) The act allows the DPUC to establish a code of conduct for transactions between natural gas utilities and their affiliates to ensure that there are no hidden subsidies from ratepayers, and to ensure that such affiliates can be questioned at DPUC hearings. The act also prevents propane dealers from terminating, during the winter months,

low-income or seriously ill customers who use propane for fuel for heating their premises. Finally, the act changes the integrated resources planning process for electricity so that it will occur once every two years, whereas it is annual at present (the first such process since restructuring occurred in 2008);

- [An Act Concerning a Collinsville Hydroelectric Facility.](#) This bill requires the Commissioner of the Department of Environmental Protection to allow the Towns of Canton, Avon, and Burlington to examine whether dams in Collinsville, on the Farmington River, might support hydropower, to allow such towns to install hydropower plants there, if feasible, and to permit the control of the flow in the river so as to maximize the operation of any such hydropower plant that is built, within legal flow requirements;

- [An Act Concerning Utility Service Termination.](#) This bill requires owners of residential buildings, such as multi-family dwellings, to give utilities, or heating fuel dealers, reasonable access to meters on the property, or else the owner will become liable for the tenants' utility bills. This requirement will apply even if the tenants' premises are individually metered. The meters must be made accessible. The bill also requires a person who wishes to terminate utility service to provide identification to the utility to demonstrate that the person is, in fact, the customer of record;



Legislative Session Cont'd

- An Act Concerning the Conveyance of Certain Parcels of State Land, a portion of which allows the sales proceeds from a sale of The Connecticut Light & Power Company ("CL&P") property in Rocky Hill to go to CL&P and its shareholders instead of going to ratepayers to reduce "stranded costs" arising from the 1998 restructuring, as would have been required under existing law. This will further delay the elimination of the stranded cost portion of customer bills. OCC opposed this provision when it appeared before the Energy & Technology Committee of the Legislature.

Some more expansive concepts were considered by either the House or the Senate, including various proposals to promote renewable energy or energy efficiency, a proposal to establish a public power authority, and proposals to facilitate more electricity planning and long-term contracting. OCC worked diligently with key legislators, the Attorney General's Office, the DPUC, project developers, consultants and others on bill language, and to promote bills that would be in the public interest. However, for various reasons, significant energy legislation was not passed this year. OCC will continue to be available to all key stakeholders in the future to accomplish reasonably-priced, modern, electricity and natural gas services in the State and region with limited subsidies to private interests.

OCC Argues for Rate Decrease in CNG Rate Case

Connecticut Natural Gas Corporation ("CNG") filed an application to increase its rates by \$7.3 million in December 2008. OCC argued that instead of a rate increase, CNG's rates should be decreased by \$19.2 million. In a

Draft Decision released on June 15, 2009, the Department of Public Utility Control ("DPUC") reduced CNG's rates by \$16.8 million. The DPUC accepted many of OCC's recommended adjustments to CNG's request, and lowered CNG's allowed return on equity to 8.93%.

The DPUC also agreed with OCC in rejecting CNG's proposed rate "decoupling" mechanism. Decoupling is broadly defined as the separation of revenues from sales volumes, and is intended to remove a utilities' disincentive to engage in conservation efforts. In Section 107 of P.A. 07-242, the Connecticut General Assembly required the DPUC to decouple gas and electric distribution revenues from sales volumes by one of a variety of mechanisms. OCC argued that the full decoupling mechanism proposed by CNG improperly shifted too much risk to ratepayers, rather than maintaining an appropriate balance between ratepayers and shareholders in shouldering risks. The DPUC agreed with OCC, and stated its intent to comply with Section 107 through the continued use of rate design to deal appropriately with volumetric changes.

OCC is preparing written exceptions to the Draft Decision, asking the Department to hold the line and institute a rate decrease of at least \$16.8 million in the final decision, due on June 30, 2009.

OCC Recommends Rate Decrease for Southern Connecticut Gas

On Tuesday, May 26, 2009, the OCC filed its brief with the DPUC in Docket Number 08-12-07, *Application of Southern Connecticut Gas for a Rate Increase*. Rather than the revised rate increase of \$34.2 million sought by SCG, OCC's Brief recommended that the Department deny the rate increase proposed, and, instead, decrease rates and revenues by \$1.6 million. Rather than SCG's requested return on equity



SCG Rate Case Cont'd

of 12.20% ("ROE") and an overall rate of return of 10.08%, the OCC recommended that the Company's ROE should be reduced to 9.00% and an overall rate of return of 7.63%, if a full decoupling mechanism is adopted for SCG. OCC also recommended adjustments that reduced SCG's revenue requirements associated with payroll, incentive compensation, pension and employee benefits, depreciation, working capital, rate case expense, uncollectibles, plant additions and cost allocations from affiliated companies.

SCG's Application also requested a number of non-traditional ratemaking mechanisms (decoupling through a fully tracking use per customer sales adjustment clause; a supplemental supply cost adjustment clause; and expense tracking and reconciliation mechanisms for pensions, post-retirement benefits and property taxes) that would remove risks from the Company and put them on the ratepayer. A Final Decision in this docket is due from the DPUC in July.

DPUC Holds the Line on UI Rates

The United Illuminating Company ("UI" or "Company") filed for a distribution rate increase in August 2008, to cover 2009 and 2010, even though the Company's existing multi-year rate plan ran through 2009. This DPUC docket attracted considerable attention, given the deepening economic recession in Connecticut and the turmoil in the nation's financial markets.

The DPUC's final decision (February 2009) was a good one. The DPUC accepted most of OCC's recommendations to scale back UI's rate increase request, including lowering the Company's allowed ROE (profit) level by one percent, to 8.75%.

Rate "decoupling" (the separation of revenues from sales volumes) was another issue in this UI case. OCC asked the DPUC to limit UI to a narrow and specific type of decoupling, centered on sales losses from conservation initiatives. The DPUC granted UI a broad-scale decoupling mechanism. However, it also treated this new mechanism as merely provisional, so that this regulatory issue will be revisited in the near future.

This UI rate case continued to cause controversy through the spring. Most dramatically, UI announced deep cutbacks in its spending on reliability programs, even though in the rate case the Company had insisted on the dire need for these programs. UI also asked the DPUC to increase its allowed ROE amount, contending that the Company had no access to the capital markets. OCC and other parties objected strongly to these UI proposals. UI eventually withdrew these post-rate case requests (just before issuing a fresh stock offering).

Certain aspects of UI's new rates (e.g., the Company's capital spending levels and the viability of its project for a new headquarters facility) remain unresolved. OCC will report on these matters in a future newsletter.

AT&T "Lawn Fridges" Finally Regulated

After over two years of litigation before the DPUC and the state superior court, the OCC was successful in obtaining a settlement that fully satisfied the interests of consumers in obtaining their full rights under state law.

This case grew from AT&T's repeated failures to observe a state law requiring it to obtain permission from property owners for the thousands of half-ton, electrified giant green steel boxes it has been bolting "on the cheap" to poles on residential and municipal properties across Connecticut for its video services.



AT&T "Lawn Fridges" Cont'd

By blatantly ignoring this long-standing statute, with which the Company was admittedly familiar (the OCC demonstrated that the law has been on the books for the last 150 years, since 1849!), AT&T was able to illegally evade its legal obligations regarding obtaining the consent of adjoining landowners. The OCC brought an administrative action in superior court to force AT&T, and all other companies installing large equipment in the public rights of way, to fully obey all aspects of existing law.

The Court and the parties agreed to specific terms that will be adopted into a DPUC decision. In the future any claims for exemption from this law must be approved by the DPUC prior to the first installation. If that approval is not obtained, then the consent of all adjoining property owners, including those on the sides of the subject property as well as across the street, must be obtained prior to any installation, as the law has required for 150 years.



AT&T Claims to Second Circuit Its Video is Like Email!

In a case that started in 2005 when AT&T first proposed to provide cable services in Connecticut through an Internet connection rather than coaxial cable used by all other cable operators (including its telephone rival, Verizon), AT&T has claimed that its service should not be regulated by anyone, because it is like email, or other Internet services. The famous claim was that "a byte is a byte is a byte," and, since the Internet is not regulated, therefore AT&T's cable service should not be either. The OCC's response was "that's a byte out of consumers," because television viewers do not care how the show gets to their living room, as long as the price is right, and the quality is good.

In what has become a landmark federal case, **OCC v. AT&T**, a U.S. district court judge found, on four separate occasions, in favor of the OCC, and held that AT&T is a cable operator providing cable services in Connecticut. AT&T has not been content to accept this court ruling. It has brought an appeal to the U.S. Circuit Court of Appeals for the Second Circuit, based in New York City, arguing that it is exempt from consumer protection, and other regulations, because of its technology. The OCC and AT&T have filed their briefs. The oral argument will be heard in November 2009 at the Second Circuit courthouse in New York.

The OCC has argued once before at this prestigious court twenty years ago, and, in that instance again the opponent was AT&T. We are hopeful of succeeding one more time at the Second Circuit, and trust that AT&T will recognize that the law is clear, and will concentrate more on high service quality to consumers than protracted litigation on moot points.



Connecticut Water Company and OCC Agree to Temporary Rate Decrease

In a filing made on April 30, 2009, to the Department of Public Utility Control ("DPUC"), the Connecticut Water Company ("CWC") and OCC entered into a settlement agreement that would result in a temporary rate decrease of approximately \$590,000, or 1.84%. If approved by the DPUC, CWC customers would see a temporary surcredit on bills from July 1st to December 31, 2009. The rate reduction would be accomplished through a reduction and equalization of depreciation rates amongst CWC's various operating divisions. These proposed depreciation rate changes will also have the impact of decreasing future rates, since these new depreciation rates would remain in effect until CWC is ordered by the DPUC to perform a new depreciation study. Also, as part of the Settlement Agreement, the parties agreed to an extension of the rate stay out period, previously approved in Docket No. 06-07-08 in January 2007. As a result of the settlement, CWC would not request a general rate increase effective prior to July 2010.

Kudos to CWC for approaching the OCC with this innovative ratemaking proposal to provide some assistance to its customers during these difficult economic times.



Home Energy Solutions

The OCC, as a member of the Energy Conservation Management Board ("ECMB") which oversees the rate payer funded Connecticut Energy Efficiency Fund ("CEEF"), is proud of all its programs. One program is the highly successful Home Energy Solutions ("HES"), a comprehensive energy efficiency program for residential customers. For a \$75 co-pay, customers that heat their home with electric, oil or gas can participate. Customers are then eligible for the following: Home energy assessment, duct and air sealing, CFL replacements, water measures, and rebates for replacing old, inefficient appliances with Energy Star appliances which include: clothes washers, refrigerators, freezers, dehumidifiers, and HV AC/heat pumps. Also included in the rebate package are opportunities for wall and attic insulation. This comprehensive review and replacement concludes with an education session ("kitchen table sit down") with customers on their usage, and how to lower it.

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Home Energy Solutions Cont'd

Over 13,000 Connecticut customers will take advantage of this program in 2009, with an estimate for customer participation in 2010 to exceed 20,000 customers. Participation continues to grow, as customers, faced with unrelenting energy bills, become aware of "their" sponsored program, and as the number of vendors and technicians expand to meet the need. This program saves energy and money, along with environmental benefits which helps the whole state.

OCC Brochure Available

OCC recently published an informational brochure to tell ratepayers who we are, what we do, and describes our recent docket and court win on their behalf. The brochure will be distributed to all public libraries in Connecticut and made available for downloading from OCC's website (www.ct.gov/occ). Call OCC at 860-827-2900 to request copies.



The State of Connecticut's Office of Consumer Counsel, located at Ten Franklin Square, New Britain, Connecticut 06051, is an independent state agency authorized by statute to act as the advocate for consumer interests in all matters which may affect Connecticut consumers with respect to public service companies, electric suppliers and persons, and certified intrastate telecommunications service providers.

The Office of Consumer Counsel is authorized to appear in and participate in any regulatory or judicial proceedings, federal or state, in which such interests of Connecticut consumers may be involved, or in which matters affecting utility services rendered or to be rendered in this state may be involved.